

The Methodist Church of New Zealand
Te Hāhi Weteriana O Aotearoa

Administration Division
P O Box 931
CHRISTCHURCH 8140

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DISCIPLINARY PROCEDURES

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THE DISCIPLINARY PROCEDURES OF THE METHODIST CHURCH OF NEW ZEALAND

1. Introduction

Within its life, the Methodist Church of New Zealand (“**the Church**”) has a responsibility to exercise discipline. It also recognises that there need to be adequate processes and procedures for the receipt and dealing with complaints in accordance with the principles of natural justice. The following sets out those processes and procedures (“**the Complaints Procedure**”).

At all times during the implementation of this Code, and especially during or after a mediation process, the Church expects all parties to seek to exercise Christian grace, forgiveness and reconciliation. The President’s primary role under this Code shall be pastoral.

The Board of Administration shall be responsible for the administration of the Complaints Procedures, and shall report regarding them, and any issues arising from them, to each Conference of the Church (“**the Conference**”).

2. Objectives

The following objectives are to be borne in mind when interpreting the complaints procedure (“**the Objectives**”):

- Upholding the laws of the Church.
- Encouraging responsible membership within the Church.
- Ensuring that complaints are dealt with adequately, promptly, and with attention to procedural fairness.
- Ensuring appropriate confidentiality and privacy.
- Achieving an appropriate resolution of each matter.

3. Complaints Procedure to be a Code

The complaints procedure shall:

- (a) form part of the Laws and Regulations of the Church (“**the Laws**”); and
- (b) be a Code.

4. Jurisdiction

- (a) The complaints procedure shall apply to any complaint relating to any Minister, or person whose name appears on the electoral roll of any Parish of the Church. It shall also apply to any person in any Co-operative Venture who is subject to the Laws of the Methodist Church of New Zealand.
- (b) In respect of matters arising under this Code, if any matter has been or is referred to the criminal or civil authorities, action shall be suspended under this Code until the matter has been determined by the civil or criminal authorities or their proceedings cease.
- (c) Complaints against a Minister may only be laid when it is alleged the Minister has:
 - (i) breached the Laws, and/or
 - (ii) failed to adhere to the 'General Standards for the Guidance of Members, and the Standards for Membership and Ministry, and/or
 - (iii) failed, or is unable, to carry out the Minister's ordination vows or has otherwise inadequately exercised responsible ministry, and/or
 - (iv) brought the Church into disrepute, and/or
 - (v) failed to uphold the doctrinal standards of the Church, and/or
 - (vi) been convicted of a criminal or quasi-criminal offence.
- (d) Complaints against a person whose name appears on the electoral roll of any Parish of the Church, other than a Minister, may only be laid when it is alleged that person has:
 - (i) breached the Laws and/or
 - (ii) failed to adhere to the 'General Standards for the Guidance of Members, and the Standards for Membership and Ministry and/or
 - (iii) brought the Church into disrepute, and/or
 - (iv) by words or actions refused to accept the discipline of Conference or otherwise repudiated their membership of the Church.
- (e) Except in the case of sexual harassment/abuse, no complaint may be laid after the expiry of 18 months from the time the basis of the complaint

arose or could reasonably have been discovered, subject to the following:

- (i) where the basis of a complaint arose over a period of time, the 18 month period runs from the end of that period of time;
- (ii) if the complaint is based on a matter(s) where a criminal prosecution is or has been brought in the secular courts the complaint must be brought within eighteen months of the date of a conviction arising from the matter(s) which form the basis of the complaint.

5. Interpretation

“Complainant” may be any individual or groups of individuals who are members of the Church, or may be the General Secretary.

“Days” should be working days and shall not include weekends and Public Holidays and the provincial days applicable to the person concerned.

“In committee” shall mean that all discussions, deliberations or other verbal or written exchanges are privileged and may not be repeated, told to or communicated to any part of the media, any organisation or person(s) other than the parties to the complaint.

“President” refers to the person appointed to, and holding that office, in the Church.

“Natural Justice” the rights of both parties to a formal complaint should be protected by the principles of Natural Justice which include freedom from bias, transparency, fairness of procedure and the right of a fair hearing.

6. Confidentiality

- (a) Subject to the Laws and this Code, all persons concerned shall at all times preserve the confidentiality of all parties to the complaint.
- (b) No party to a complaint shall publicly disclose any of the details of the complaint, investigation or any mediation, subject always to the party’s right to instruct Counsel, take other professional advice, or for the purposes of counselling or pastoral care.
- (c) The Complaints Officer shall notify all parties to a complaint of this obligation of confidentiality.

- (d) No person shall make any unwarranted disclosure of any matter relating to a complaint to any part of the media, any organisation or other person(s). The only disclosures, which are warranted, are those which are made by a Complaints Officer, or others involved in the processes set out in this Code, for the purposes of determining the complaint.

PART I - COMPLAINTS OFFICERS

7. Constitution of the Office

There shall be an office of the Conference known as “the Complaints Officer”.

8. Functions of the Complaints Officer

The functions of the Complaints Officer shall be:

- (a) to receive and investigate complaints;
- (b) to ensure the provision of initial pastoral care for both the person complained against and the complainant;
- (c) to determine if mediation is appropriate and if so, to arrange for appropriate mediation.

9. Appointment of the Complaints Officer

- (a) Following advice from the Pastoral Committee, the General Secretary shall nominate and the Council of Conference through its report, shall present to Conference, the nomination for each Complaints Officer.
- (b) Conference shall appoint not less than two or more than three persons to this office at any time.
- (c) In considering the appointment of any person for the position of the office of Complaints Officer, regard shall be had to the potential Complaints Officer’s personal attributes and knowledge of and experience in the type of matters likely to come before a Complaints Officer.
- (d) No person who is a member of any other disciplinary body created by this Code shall be eligible for appointment as a Complaints Officer; any Complaints Officer who becomes a member of any other disciplinary body created by this Code shall immediately cease to be a Complaints Officer.

10. Term of Appointment

Each Complaints Officer shall:

- (a) be appointed for a term not exceeding four years and shall be eligible for reappointment, normally for not more than one further term of up to four years;
- (b) be liable for review at any time at the discretion of the President following advice from the Pastoral Committee of the Church;
- (c) take office at beginning of the Connexional year after the Conference at which that Complaints Officer is appointed;

11. Vacation of Position

- (a) Any Complaints Officer may resign by giving written notice to that effect to the President in accordance with any relevant contract.
- (b) A Complaints Officer's appointment shall cease if the Complaints Officer:
 - (i) dies; or
 - (ii) is adjudged bankrupt under the Insolvency Act 1967; or
 - (iii) is convicted under the Crimes Act 1961; or
 - (iv) the Misuse of Drugs Act, or
 - (v) any other serious offence carrying a possible sentence of 3 months or more imprisonment;
 - (vi) is confirmed as a member of any other disciplinary body under the Laws or this Code;
 - (vii) is found to be in breach of the Church's Ethical Standards;
 - (viii) removed from the position.

12. Performance Review

The Conference shall ensure that at least once in every two years of the term of each Complaints Officer's position a performance review is carried out, this to be arranged by the Pastoral Committee.

13. Removal from Position

The President, acting on the advice of the Pastoral Committee, may at any time remove a Complaints Officer from the position. The Pastoral Committee may give such advice for any reason it sees fit.

14. Training of Officers

- (a) Conference shall from time to time decide the appropriate training of each Complaints Officer.
- (b) The General Secretary shall be responsible for arranging any training.

15. Expenses of Position

- (a) there shall be paid to each Complaints Officer such remuneration, allowances and expenses as Conference shall from time to time decide.
- (b) Conference shall be responsible to arrange appropriate funding.

16. Making a Complaint

- (a) Each complaint must be in writing, shall state the nature of the complaint as set out in s.4(c) or (d), and the factual basis for the complaint and the person(s) against whom it is made, and shall be filed by the complainant with the General Secretary.
- (b) The General Secretary shall promptly provide:
 - (ix) The Pastoral Committee with a copy of every complaint made against a Minister.
 - (x) The Principal with a copy of any complaint against a student.
 - (xi) The Principal and the designated Synod Superintendent of any complaint against a probationer.
- (c) If the complaint is against a Minister, the General Secretary may be requested by the Pastoral Committee to also lay a complaint on behalf of the Church.
- (d) Each complaint shall be directed, by the General Secretary, to an appropriate Complaints Officer.
- (e) Upon receipt of any complaint, a Complaints Officer shall immediately give written notice to any person(s) affected by the complaint of its receipt, and shall enclose a copy of the complaint(s) and advise as to the person(s) by who or whom it is made.

- (f) Every such notification to a person against whom a complaint has been made shall include advice that that person is entitled to have a friend/support person and/or one legal Counsel present at any interview, and the general rules relating to the conduct of interviews (s.64) shall apply.
- (g) If the complaint involves the General Secretary, then the President shall, either personally or through an appointed representative, assume the role of the General Secretary under this Code for the purpose of that complaint.

17. The Investigation Process

- (a) Each Complaints Officer who receives a complaint within that Complaints Officer's jurisdiction or responsibility shall conduct an investigation into the complaint promptly following lodgement of the complaint. Normally the investigation shall be commenced within 14 days of receipt of the written complaint. If the complaint received alleges a breach of the criminal law of New Zealand then the Complaints Officer shall advise the complainant to that effect and that the matter should be referred, by the complainant, to the police. No further investigation shall be carried out by the Complaints Officer until any criminal or civil action relating to or arising from the facts or circumstances giving rise to the complaint is concluded.
- (b) If a Complaints Officer, in considering a complaint, is, or is likely to be placed, in a position that leads to a conflict of interest, that Complaints Officer shall refer the complaint to another Complaints Officer.
- (c) After conducting an investigation the Complaints Officer shall prepare a report stating the nature of the complaint and shall determine either:
 - (i) that the complaint has no substance, or
 - (ii) that it has substance;
 - (iii) and shall promptly inform the parties of that determination.
- (d) In the event:
 - (i) the complaint is considered to be of no substance, then the matter is concluded for all parties involved subject to Part 3 of the Code. The Complaints Officer shall prepare a report pursuant to section 22(a) of these Laws;

- (ii) if the complaint is considered to have substance then:
 - 1. where the complaint is of substance and mediation would be appropriate in the opinion of the Complaints Officer, subject to s.20(a) the Complaints Officer shall arrange a mediation between the parties pursuant to section 20 of these Laws; or
 - 2. where the complaint is of substance and mediation would not be appropriate, or any mediation held has failed to resolve the complaint, or consent under s.20(a) is not available, the Complaints Officer shall prepare a report pursuant to section 21(b) of these Laws, and refer the report and the complaint to the Complaints Review Panel Chairperson.
 - 3. where the complaint is of substance and mediation would not be appropriate, or any mediation held has failed to resolve the complaint, or consent under s.20(a) is not available, and the Complaints Officer determines that the matter should not proceed further, the Complaints Officer shall prepare a report pursuant to section 22(b) of these Laws, and refer the report and the complaint to the Complaints Review Panel Chairperson.
- (e) At the commencement of any investigation, the Complaints Officer, or someone appointed by the Complaints Officer, shall ensure initial pastoral care and counselling is provided to the parties, including where appropriate, members of the parish of the complainant and/or respondent, or any others affected.
- (f) Subject to this Code, and to the rules of natural justice, each Complaints Officer shall regulate their investigation procedure in such a manner as the Complaints Officer thinks fit.
- (g) Each Complaints Officer shall keep a record of the investigation. The record shall be accessible through the General Secretary only to persons permitted access under this Code or the Laws.

18. Conducting Interviews

- (a) For the purpose of any investigation, the Complaints Officer may interview any person the Complaints Officer believes is, or may be, relevant to the complaint.
- (b) Such interviews shall be held at such times and places as the Complaints Officer appoints.

- (c) The Complaints Officer may adjourn any such interview from time to time and from place to place.
- (d) All interviews shall be held in private.
- (e) Each party may have with them a friend/support person and/or one legal Counsel.

19. General Powers of Investigation

- (a) For the purpose of any investigation, the Complaints Officer may:
 - (i) inspect and examine any material which the Complaints Officer deems relevant;
 - (ii) request any persons to produce for examination any papers, documents, records or things in that person's possession, power or control and to take copies of or extracts from such papers, documents or records;
 - (iii) request any person to furnish in a form approved or acceptable to the Complaints Officer, any information or particulars that shall be required by the Complaints Officer and any copies or extracts from such papers, documents or records.
- (b) The Complaints Officer may require any written information, to be verified by statutory declaration or otherwise.

20. Mediation

- (a) Unless both parties agree to the contrary mediation shall not be used when the complaint is one of sexual harassment.
- (b) A Complaints Officer may arrange for mediation in respect of a complaint, but prior to mediation taking place there shall be consultation between the Complaints Officer and the General Secretary to confirm that adequate funds are available.
- (c) If the parties cannot reach agreement as to mediation within 21 working days of the Complaints Officer suggesting mediation, the Complaints Officer shall forward a report and a copy of the complaint to the Complaints Review Panel pursuant to section 22(b) of this Code.
- (d) Having agreed to attempt to reach a mediated resolution, mediation shall be convened within 30 days ("**the Mediation Period**"). Written advice of the outcome of the mediation shall be provided to the Complaints Officer by the mediator and shall be signed by all present at the mediation.

- (e) If the mediation results in a resolution, the Complaints Officer shall prepare a report pursuant to section 22(a) of this Code and the complaint shall be deemed concluded.
- (f) If the parties cannot reach a mediated resolution within the Mediation Period, then subject to sub-section (a) of this clause, the mediation process may be extended for one additional Mediation Period if all parties agree.
- (g) If at the end of the Mediation Period(s) no mediated resolution is reached, the Complaints Officer shall forward a report and a copy of the complaint to the Complaints Review Panel pursuant to section 22(b) of these Laws.
- (h) No complaint which may result in a Presbyterian/Deacon being found to be unsuitable to continue in Full Connexion with the Conference or involving dishonesty, shall be referred to a mediation process.
- (i) A person who has declined mediation may with the agreement of the Complaints Officer revisit the option of mediation within 90 days of the initial offer to mediation.

21. Mediation Process

If mediation is to take place, then subject to this Code, the mediator shall regulate the mediation procedure.

22. Reporting and Referring on Complaints

- (a) When the parties cannot reach agreement as to mediation following a determination under section 17(d)(ii)(1), or a determination has been made under section 17(d)(ii) (2), or section 17(d)(ii)(3), the Complaints Officer shall prepare a report stating the nature of the complaint, the steps taken in reaching a determination, the Complaints Officer's conclusions and the reasons for those conclusions. The report shall be sent to the Complaints Review Panel Chairperson.
- (b) A copy of reports under this section and 17(c) shall be forwarded to the parties and the General Secretary.
- (c) Where in the opinion of the Complaints officer the outcome of the complaint should be conveyed to other parties, the Complaints officer may recommend such disclosure to the General Secretary to do so at his/her discretion.

23. Withdrawal of Complaints

No complaint shall be withdrawn without the written consent of all parties.

If a complaint is withdrawn or otherwise disposed of under this code no further complaint on the same matter may be laid by the complainant involved.

24. Right of Review

- (a) If the Complaints Officer determines the complaint is of no substance and requires no further action the person(s) against whom the complaint has been made shall have no right of appeal.
- (b) Any complainant who disputes the determination of the Complaints Officer shall so advise the General Secretary, in writing within three weeks of receipt of the Complaints Officer's determination, and such advice shall state why the determination is disputed.
- (c) The General Secretary shall on receipt of the complainants grounds for an appeal, refer those grounds to the complaints Review Committee who shall determine if the grounds are sufficient for further investigation by a second complaints Officer in accordance with section 19 of this code.
- (d) If the Complaints Officer appointed under sub-paragraph (c) shall also determine the complaint is of no substance, that shall be the final determination of that complaint.

25. Complaints Relating to a Complaints Officer

Any complaint relating to a Complaints Officer, including whether any particular Complaints Officer is for any reason unacceptable to any party, shall be made to the Pastoral Committee which shall decide the issue and may appoint another Complaints Officer to act as the Complaints Officer to deal with that complaint.

PART II - REVIEW OF COMPLAINTS

26. Complaints Reviewers

There shall be a panel of Reviewers appointed annually by Conference.

27. Purpose of the Reviewers

The Reviewers provide a pool of persons from whom a Complaints Review Committee is comprised as and when the occasion arises in the manner set out in this Code.

28. Membership of the Reviewers Panel

- (a) The Reviewers Panel shall comprise:
 - (i) a chairperson (the Review Chairperson) appointed annually by the Conference on the nomination of the Board of Administration;
 - (ii) not than more than ten persons, appointed annually by the Conference on the nomination of the Board of Administration acting on the recommendation of the President's Committee of Advice ("**the Reviewers**") of whom five shall be Presbyters in Full Connexion and five lay persons;
- (a) When considering the suitability of any potential Reviewer, regard shall be of the potential Reviewer's personal attributes, knowledge and experience.
- (b) No person who is currently a member of Pastoral Committee, the President's Committee of Advice, the Council of Conference, is the principal or a staff member of the Theological College, is the Director or a staff member of Mission Resourcing, or who has a complaint upheld under these procedures, shall be eligible for appointment as a Reviewer.

29. Functions of the Review Chairperson

- (a) To receive the report of any Complaints Officer.
- (b) Where the report from a Complaints Officer involves the reference of the complaint to a Complaints Review Committee:
 - (i) under section 17(d)(iv)(2), to constitute a Complaints Review Committee from the Reviewers Panel.
 - (ii) under section 17(d)(iv)(3) to constitute a Complaints Review Committee from the Review Panel only in the event the Complainant notifies the General Secretary within 14 days of receipt of the Complaints Officer's determination that he/she objects to the determination that the matter should not proceed further.
- (c) Where the Review Chairperson is not a member of a Complaints Review Committee when constituted, to appoint a Convenor who shall chair that Complaints Review Committee.
- (d) In respect of such matters as are advised to the Review Chairperson by a Complaints Review Committee, which are more appropriately dealt with

by civil or criminal proceedings to advise the Complaint to take the complaint to the appropriate authority.

- (e) Ensure that all reports required of Complaints Review Committees are forwarded promptly to all concerned as provided by this Code.
- (f) To arrange the preparation of formal charges and filing with the Disciplinary Tribunal in accordance with sections 37 and 38.
- (g) In consultation with the General Secretary, to appoint legal or other suitable Counsel to prosecute any matter before the Disciplinary Tribunal.
- (h) Report to Conference each year as to the work of the Reviewers and the Complaints Review Committees, with any suggestions as to amendments to this Code.

30. Complaints Review Committees

Each Complaints Review Committee shall comprise not less than three Reviewers, at least one of whom shall be a Presbyterian in Full Connexion, and shall be constituted having regard to the nature of the complaint, the locality of the complainant, the place where the complaint arose and any other relevant issue. The Review Chairman may be a member of any Complaints Review Committee unless doing so would be contrary to natural justice.

31. Functions of each Complaints Review Committee

Each Complaints Review Committee shall:

- (a) ensure that the Complaints Officer has complied with the procedures contained in Sections 17 – 22 of this Code;
- (b) determine whether a complaint should be referred back to the Complaints Officer or another Complaints Officer in the event that the procedures in Sections 17 – 22 have not been followed;
- (c) consider and deal with any complaint properly referred to it;
- (d) determine if the matter is one which should be referred to the civil or criminal authorities and if so to advise the Review Chairperson;
- (e) determine if a Charge is to be brought. A Charge may be brought notwithstanding that the person complained against is being dealt with under the civil or criminal law. A Charge under this Code which depends, for its determination, upon the findings in a prosecution or

claim under the civil or criminal law will not be dealt with under this Code until the civil or criminal process has been completed;

- (f) exercise and perform such other functions as are conferred upon the Committee by Conference.

32. Procedure of the Complaints Review Committee

- (a) The Complaints Review Committee shall review and consider the complaint and the accompanying report. Normally such review and consideration shall be completed within 21 days of the Complaints Review Committee being convened. (“**the Review Period**”).
- (b) When reviewing the complaint and accompanying report, the Complaints Review Committee shall determine whether:
 - (i) the complaint shall be taken no further;
 - (ii) the person complained against shall be charged and brought before the Tribunal;
 - (iii) the complaint involves matters which should be referred to the civil or criminal authorities.
- (c) If, upon the expiry of the Review Period the Complaints Review Committee determines that:
 - (i) the complaint shall be taken no further, the Complaints Review Committee shall prepare a report pursuant to section 34(a) of this Code; or
 - (ii) the complaint shall be taken further and the person complained against be charged and brought before the Disciplinary Tribunal, the Complaints Review Committee is to act pursuant to section 35 of this Code; or
 - (iii) the complaint is one which should be referred to the Police, the Complaints Review Committee shall prepare a report pursuant to section 36(a) of this Code and refer the matter to the Police.
- (d) During the Review Period, the Synod Superintendent shall ensure that continuing suitable pastoral care and counselling is available to the parties, including where appropriate, members of the parish of the complainant and/or the respondent or any others affected.

- (e) The Complaints Review Committee shall not have power to deal with any matter where the effect of doing so would be to replace the procedures as to Stationing as set out in section 2.17.1ff of the Laws.
- (f) Subject to this Code and the rules of natural justice, the Complaints Review Committee shall regulate its procedure in such a manner as it thinks fit, and shall advise all parties as to the procedure for any matter before it at the earliest opportunity.
- (g) The Complaints Review Committee may contact and interview the person complained against, and may also contact and interview the complainant, and any other person the Complaints Review Committee believes to be, or may be, relevant to, or have information relevant to, the complaint.
- (h) The Complaints Review Committee shall be able to instruct the Complaints Officer who referred the complaint to the Complaints Review Committee to act as an agent of the Complaints Review Committee and conduct further investigations and interviews on its behalf.

33. Mediation

- (a) If, pursuant to section 32(c)(ii) of this Code, the Complaints Review Committee determines that mediation is appropriate, and the parties agree in writing to that process, and as to who is to be appointed mediator and to be bound by the outcome, the matter shall be dealt with in accordance with the agreement reached.
- (b) If the parties cannot reach such an agreement within fourteen working days of the Complaints Review Committee deciding to allow the use of a mediation process, the Complaints Review Committee shall determine if the complaint is to be taken further. If the Complaints Review Committee determines that:
 - (i) the complaint shall be taken no further, the Complaints Review Committee shall prepare a report pursuant to section 35(a) of this Code; or
 - (ii) the complaint shall be taken further and the person complained against should be charged and brought before the Disciplinary Tribunal, then the Complaints Review Committee is to act pursuant to section 36 of this Code.
- (c) A person who has declined mediation may with the agreement of the Complaints Officer revisit the option of mediation within 90 days of the initial offer to mediate.

34. Mediation Process

If an alternative dispute resolution process is to be followed, then:

- (a) subject to this Code, the mediator shall regulate the mediation procedure;
- (b) a resolution must be reached within 30 days of the parties to the complaint agreeing to attempt to reach a resolution through a mediation process (“**the Resolution Period**”);
- (c) if the parties cannot reach a mediated resolution within the Resolution Period they may agree to extend the mediation process for one additional Resolution Period;
- (d) if at the end of the Resolution Period the Mediator reports to the Complaints Review Committee no agreement can be reached, the Complaints Review Committee shall determine if the complaint should be taken further. If the Complaints Review Committee determines that:
 - (i) the complaint shall be taken no further, the Complaints Review Committee shall prepare a report pursuant to section 35(a) of this Code; or
 - (ii) the complaint shall be taken further and the person accused against be charged and brought before the Disciplinary Tribunal under this Code, then the Complaints Review Committee is to act pursuant to section 36 of this Code.
- (e) If the parties to the complaint reach an agreement by mediation the Complaints Review Committee shall prepare a report pursuant to section 38(b) of this Code.

35. Reports by the Complaints Review Committee

- (a) When the Complaints Review Committee determines that a complaint shall be taken no further, or;
- (b) the Mediator reports the parties to the complaint have reached an agreed settlement,

then the Complaints Review Committee shall prepare a brief report indicating the nature of the complaint and outline either the Complaints Review Committee’s reasons for believing the complaint is to be taken no further, or the result achieved. A copy of the report shall be forwarded to the parties and the General Secretary.

36. Complaints Review Committee Process

If, pursuant to sections 32(c)(ii) or 32(b)(ii) of this Code, the Complaints Review Committee determines that:

- (a) the complaint appears to involve a breach of one or more of the Laws; and,
- (b) that the complaint be taken further, then

the Review Chairperson shall arrange the preparation of a formal charge and file it with the Tribunal.

37. Charges

The Review Chairperson shall lay any charge as a result of a determination by the Complaints Review Committee pursuant to section 36.

38. Form of the Charge

- (a) Every charge shall be in the form prescribed by this section, unless expressly varied or supplemented by the rules and regulations of the Disciplinary Tribunal.
- (b) Every Charge shall:
 - (i) be in writing;
 - (ii) state the name, address and occupation of the person to be charged;
 - (iii) specify each breach which the person to be charged is alleged to have committed;
 - (iv) contain such particulars as shall clearly inform the Disciplinary Tribunal and the person to be charged of the grounds for each charge;
 - (v) be signed by the Review Chairperson.

39. Withdrawal of Complaints

- (a) Except with leave of the Complaints Review Committee, no complaint shall be withdrawn after the Complaints Review Committee has received the complaint.

- (b) A complainant wishing to withdraw may make an application to the Complaints Review Committee for leave to withdraw, specifying the reasons for the desire to withdraw.
- (c) Upon receipt of any such application the Complaints Review Committee shall either;
 - (i) grant leave to withdraw the complaint on such terms as the Complaints Review Committee shall determine; or
 - (ii) refuse leave to withdraw the complaint.

40. Appeals

- (a) No appeal to the Disciplinary Tribunal against any decision of the Complaints Review Committee shall be brought without leave of the Disciplinary Tribunal.
- (b) Any application for leave to appeal must be filed with the Disciplinary Tribunal within 21 days after the date the Complaints Review Committee's decision is communicated to the parties to the complaint.

41. Complaints Against Reviewers

If a complaint is made against a Reviewer then that person shall not be eligible to form part of the Complaints Review Committee dealing with that matter.

PART IV – THE DISCIPLINARY TRIBUNAL

42. The Disciplinary Tribunal

There shall be a tribunal of the Conference known as the Disciplinary Tribunal.

43. Jurisdiction

- (a) Subject to any other provision in this Code, (and subsections (b) of this Section) the Disciplinary Tribunal shall have the powers of Conference in respect of matters properly brought before it including, but without limiting the generality of the foregoing:
 - (i) to determine its own procedures in accordance with the principles of natural justice;

- (ii) to make such orders, interim or final, as are necessary to determine any matter before it and to advise the General Secretary of such orders;
 - (iii) to advise the President to remove a Presbyter/Deacon from Full Connexion with the Conference, and the President shall act in accordance with that advice;
 - (iv) power to suspend a Minister or Member either fully or partially;
 - (v) power to remove a Member from the Electoral Roll or from positions of responsibility in the Parish;
 - (vi) in the event a Minister or Member is charged with an offence under the Crimes Act 1961 or Misuse of Drugs Act 1965, or amendments thereof, to make such orders as it deems appropriate regarding the continuation of that person's ministry or position within a Parish pending determination or further order.
 - (vii) To hear applications as to correct or appropriate process from a complainant, respondent, General Secretary, Complaints Review Chairperson at any stage of the processes set out in this code.
- (b) In matters relating to the performance of a Minister the provisions of this Code are not to be used if the effect is to replace the Stationing procedures set out in sections 2.17.1 and following of the Laws.

44. Membership of the Disciplinary Tribunal

- (a) The Disciplinary Tribunal shall comprise:
 - (i) a chairperson (“the Disciplinary Tribunal Chairperson”);
 - (ii) an alternative chairperson (“the Disciplinary Tribunal Alternate Chairperson”);
 - (iii) at least twelve other persons, appointed annually by Conference on the nomination of the Board of Administration acting on the recommendations of the President's Committee of Advice (“**the Disciplinary Tribunal Members**”) of whom at least five shall be Ministers in Full Connexion;
 - (iv) in considering the suitability of any potential Disciplinary Tribunal Member, regard shall be had to their personal attributes, knowledge and experience.

- (b) No person who is currently a member of the Pastoral Committee, the President's Committee of Advice, the Council of Conference, is the principal or a staff member of the Theological College, is the Director or a staff member of Mission Resourcing, shall be eligible for appointment to the Disciplinary Tribunal.

45. Appointment of the Tribunal Chairperson and Alternate Tribunal Chairperson

- (a) The Board of Administration, acting on the recommendation of the President's Committee of Advice, shall nominate to Conference for appointment one person each for the position of Tribunal Chairperson and Alternate Tribunal Chairperson. Each of the Tribunal Chairperson and Alternate Tribunal Chairperson shall be a Barrister or a Barrister and Solicitor of the High Court of New Zealand of not less than ten years litigation practice.
- (b) The Alternate Tribunal Chairperson shall act only if the Tribunal Chairperson is unavailable.
- (c) References to the "Tribunal Chairperson" in this Code shall be deemed to include reference to the Alternate Tribunal Chairperson
- (d) No person who is a member of any other body created by this Code shall be eligible for appointment as Tribunal Chairperson or Alternative Tribunal Chairperson.

46. The Tribunal Chairperson's and Members' Term of Office

The Tribunal Chairperson and each member of the Disciplinary Tribunal shall:

- (a) be appointed for a term of four years, and may be re-appointed for one further consecutive term of up to four years, and
- (b) be subject to review at yearly intervals during their term of appointment at the discretion of the President's Committee of Advice, and
- (c) take office at the beginning of the Connexional year after the Conference at which the Chairperson is appointed;

47. Vacation of the Office of Tribunal Chairperson or Disciplinary Tribunal Member

The Tribunal Chairperson or any Disciplinary Tribunal member shall be deemed to have vacated office if that person:

- (a) dies; or
- (b) resigns by written notice to the President, or
- (c) no longer meets the qualifications set down in section 44(a) above; or
- (d) is adjudged bankrupt under the Insolvency Act 1967; or
- (e) is convicted of any crime under the Crimes Act 1961; or
- (f) accepts membership of any other disciplinary body under the Laws or this Code; or
- (g) is removed from office.

48. Removal of the Tribunal Chairperson or any Member of the Disciplinary Tribunal

The President, acting in accordance with the recommendation of the President's Committee of Advice may remove from office the Tribunal Chairperson or any member of the Disciplinary Tribunal.

49. Expenses of the Disciplinary Tribunal

- (a) Conference shall be responsible for the funding of the disciplinary procedures set out in this Code.
- (b) The Board of Administration shall prepare budgets and report to the Conference annually as to necessary funding requirements of these disciplinary procedures including provision for contingencies.

50. Contacting the Disciplinary Tribunal

- (a) All communications to or with the Disciplinary Tribunal shall be addressed through the General Secretary, who shall consult with the Tribunal Chairperson to institute the processes prescribed by this Code.
- (b) If a hearing is required, the General Secretary shall ensure that appropriate resources and secretarial assistance are provided for the Tribunal Chairperson and the Disciplinary Tribunal.

51. Convening the Disciplinary Tribunal

- (a) The Tribunal Chairperson shall, within twenty one days of receiving a charge;

- (i) decide which members shall constitute the Disciplinary Tribunal to hear, and
 - (ii) determine that charge; and
 - (iii) provide copies of all relevant documents; and
 - (iv) set the time and place for a hearing; and
 - (v) notify all relevant persons of the time, place and expected time frame.
- (b) In constituting a Disciplinary Tribunal regard shall be had to any conflict of interest the Tribunal Chairperson or any member might have in dealing with the matter to come before the Disciplinary Tribunal.

52. Additional Powers of Tribunal Chairperson

If considered appropriate in any particular matter the Tribunal Chairperson may:

- (a) convene the Tribunal urgently to hear any application for suspension of a Minister pending the determination of any charge;
- (b) convene a meeting of the parties; and/or
- (c) require further information or documentation; and/or
- (d) explore any possible ways of resolving the matter without a hearing;
- (e) extend any time deadlines set elsewhere in this Code.
- (f) to hear any applications under 43(a)(vii).
- (g) at any stage of the proceedings the tribunal may rule on issues of process.

53. Interlocutory Applications and Leave to Appeal

The Tribunal Chairperson shall be responsible to hear and determine:

- (a) any application for orders for discovery of documents;
- (b) matters requiring determination before the hearing of any charge;
- (c) applications for leave to appeal under section 40(a);

54. Quorum for the Disciplinary Tribunal

- (a) The Disciplinary Tribunal to hear a charge shall comprise the Tribunal Chairperson and not less than five Disciplinary Tribunal members at least two of whom shall be Ordained and at least two who are Lay persons.
- (b) The Tribunal Chairperson may adjourn any meeting of the Disciplinary Tribunal from time to time and from place to place.
- (c) Any decision made by a majority of the members of the Disciplinary Tribunal shall be the decision of the Tribunal.
- (d) In setting the place of the meeting of a Disciplinary Tribunal, regard shall be had as to any need for a neutral venue, and, so far as reasonably possible, the convenience of the parties and the cost of the proceedings.

55. Evidence

All evidence given before the Tribunal shall be on oath.

56. Standard of Proof

In determining whether or not a respondent is guilty or not guilty on any particular charge, the Disciplinary Tribunal shall determine the matter on the balance of probabilities. Where the subject matter of the complaint is of a serious nature, then guilt must be established to a sufficiently high degree of probability, which is as convincing in its nature as the charge is grave. This is not proof beyond reasonable doubt. However, the difference between the criminal standard (of proof beyond reasonable doubt) and the civil standard (proof on the balance of probabilities) diminishes in this context with the seriousness and/or criminality of the conduct complained of.

57. Prosecution

Each charge brought before the Disciplinary Tribunal shall be prosecuted by legal or other suitable counsel appointed by the Review Chairperson in consultation with the General Secretary.

58. Suspension

- (a) An order by the Disciplinary Tribunal that a Presbyter/Deacon is suspended pending the determination of the charge(s) before it shall mean the Presbyter is to cease any exercise of ministry until further order of the Disciplinary Tribunal.

- (b) The Disciplinary Tribunal may make an order which is less than suspension but which restricts the Presbyter/Deacon's exercise of ministry in the manner decided by the Disciplinary Tribunal (partial suspension).
- (c) The Presbyter/Deacon will continue to receive a stipend, accommodation and any other benefits but not any payment in the nature of a reimbursement during suspension or partial suspension.
- (d) The Minister in Full Connexion may consult with his/her Synod Superintendent (or if a District Superintendent the President) as to how his/her pastoral needs will be met during suspension or partial suspension.

59. Hearings

- (a) All hearings of the Disciplinary Tribunal, whether by the Disciplinary Tribunal Chairperson or the full Disciplinary Tribunal shall be held "in committee".
- (b) The complainant, the party charged and any other person the Disciplinary Tribunal Chairperson permits or requires, may attend the hearing.
- (c) The complainant, the party charged and any other person the Disciplinary Tribunal Chairperson permits or requires may have legal counsel appear on their behalf and may be accompanied by a support person.
- (d) Witnesses shall be excluded from the hearing until called to give evidence and may only remain if the Disciplinary Tribunal Chairperson so rules.
- (e) Nothing in subsections (a) to (d) of this section shall prevent the Disciplinary Tribunal Chairperson from ruling contrary to any or all of these provisions if they would result in unfairness to any person concerned.
- (f) The Disciplinary Tribunal shall have power to impose orders as to confidentiality.
- (g) A record of the proceedings will be kept, subject to such amendments as the Tribunal Chairperson deems appropriate to protect a complainant or witness.

60. Application for a rehearing

- (a) An application for a rehearing shall be heard by the Alternate Tribunal Chairperson or, in the event the Alternate Tribunal Chairperson presided over the original hearing, then the Tribunal Chairperson.
- (b) An application for a rehearing must be received within 30 days of the result of the original hearing.
- (c) An application for a rehearing may be granted when the applicant is able to establish:
 - (i) that there is new evidence which is relevant to the proceedings that was not available at the time of the original hearing, or
 - (ii) that the provisions of this Code have not been followed, or
 - (iii) that there has been a breach of the rules of natural justice in the process followed up to the determination of the original hearing.
- (c) When an application for a rehearing is granted the Disciplinary Tribunal shall be constituted from Disciplinary Tribunal members who did not hear the original hearing and shall be chaired by the Alternate Tribunal Chairperson or the Tribunal Chairperson who heard the application for a rehearing.

61. Appeals

There shall be no appeal from the findings of the Tribunal.

Note: Forgiveness provision now in Law Book Section 2.29.1 (d).

- 62.** Any time limits contained within this code are to be strictly adhered to. However, they may be extended from time to time for specified periods by the Complaints Review Chairperson or the Tribunal Chairperson as appropriate by written advice to the parties and the General Secretary. Any failure to meet time limits shall not invalidate any actions done or decisions made.

PART V – GENERAL PROVISIONS

63. Costs

The Church shall in no circumstances be liable to meet any costs or disbursements incurred by any person against whom any complaint, charge of other proceeding is laid or brought under this Code."

64. General Rules Relating to the Conduct of Interviews

For the purpose of reviewing and considering any complaint, the following shall apply:

- (a) each interview shall be conducted at such times and places as the Chairperson or Complaints Officer appoints;
- (b) prior to the commencement of each interview, the Chairperson or Complaints Officer shall ensure that the interviewee has been informed of their right to have a friend/support person and/or one legal counsel present. Should the interviewee wish at any time to have such a person present, then any interview shall cease until such a person is present. Should the interviewee decline to exercise this right the interview shall proceed;
- (c) only the following shall be present at any interview:
 - (i) the Disciplinary Tribunal, the Complaints Review Committee or the Complaints Officer, as the case may be;
 - (ii) the interviewee, and that person's legal counsel, if any;
 - (iii) any friend/support person present pursuant to subsection (b) above, who shall not have or act in an advocacy role, but may be invited by the interviewer to speak;
 - (iv) any person who is, for the time being, responsible for recording the interview;
- (d) any interview may be adjourned from time to time and from place to place.

65. General Powers of Investigation

For the purpose of dealing with matters before the Disciplinary Tribunal, the Disciplinary Tribunal may:

- (a) inspect and examine any papers, documents, records or things;
- (b) require any persons or officer of the Church to produce for examination any papers, documents, records electronic data or things in that person's possession, power or control relevant to the matter before the Disciplinary Tribunal and to allow copies of or extracts from such papers, documents or records to be made;

- (c) require any person or officer of the Church to furnish in a form required or acceptable to the Disciplinary Tribunal, any information or particulars that may be required by the Disciplinary Tribunal and any copies or extracts from such papers, documents or records, if required verified by statutory declaration or other acceptable method.

66. Publication and Record of Proceedings

- (a) The Disciplinary Tribunal shall keep a written record of its proceedings which shall be retained by the Disciplinary Tribunal Chairperson at such place as he or she deems appropriate, but unless otherwise ordered, any such record may be disposed of 10 years after determination of the charge.
- (b) The Tribunal shall report to Conference each year as to its activities. No name or details are to be provided in the report except where the finding is adverse to the person complained against.
- (c) Where there is a finding adverse to the person complained against the name of that person and the finding shall be published by the Tribunal and distributed through the Connexional Office.

67. Relieving of Ministerial Duties and Responsibilities

Without prejudice to any other provisions of this Code of Disciplinary Regulations, the President may, following advice of the Pastoral Committee, relieve a minister of some or all of that minister's tasks and responsibilities within their current appointment throughout the course of any action under this Code of Disciplinary Regulations in which that minister is involved

68. Conditions applying to a Suspended or Expelled Minister

When the processes and procedures of the Code of Disciplinary Regulations have been completed, and a decision has been made to suspend or expel a minister, the following conditions shall apply to that minister:

- (a) A Minister suspended by Conference shall not take part in the business of any Church Court without the permission of Conference, and shall have no claim upon the Conference for financial support during the period of suspension unless Conference shall otherwise determine.
- (b) A Minister who is expelled shall immediately cease to be recognised as a Minister of the Methodist Church, and the Minister's name shall appear in the Minutes of Conference under Question 9 (see 7.11.2.9)

- (c) No person being a suspended or expelled Minister shall, without the prior consent in each case of the Pastoral Committee, hold any leadership position in the Church, or be authorised to preach or participate in the leadership of any Worship Service of the Church.